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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,545	12/31/2003	Matthew Jay	20178-5	8827
7590	08/01/2005		EXAMINER	
Woodard, Emhardt, Moriarty, McNett & Henry LLP Bank One Center/Tower Suite 3700 111 Monument Circle Indianapolis, IN 46204-5137			GREEN, BRIAN	
			ART UNIT	PAPER NUMBER
			3611	
DATE MAILED: 08/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/749,545	JAY, MATTHEW
	Examiner Brian K. Green	Art Unit 3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 May 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-11 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 December 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the central section being about one third of the width of the body member as defined in claims 4, 7, and 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 5 is objected to because of the following informalities: In claim 5, line 9, “the maximum length” should apparently be “a maximum length” since there is not antecedent basis for “the maximum length”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 3,4,6,7,9, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3,6, and 9, it is not understood how the body member and frame member “collectively” define a top surface that is convex since the surfaces of the body member and frame member are at different levels and do not collectively define “a top surface”. In claims 4,7, and 10, lines 1-2, stating that the central section is one third the width of the body member is considered to be misdescriptive since the figures clearly show that the central section is approximately half the width of the body member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gori (U.S. Patent No. 5,301,443) in view of Evans (U.S. Design Patent No. 206,518) or Emmett (U.S. Design Patent No. D419,604).

Gori shows in figures 1-10 a display system including an elongate lateral restraint (173) "connectable" to a ski-lift chair, a body member (9) and a frame member (7). The body member (9) has a length at least two times greater than the thickness. The thickness is based only on the thickness of the body member (9), i.e. the body member (9) has a thickness which is less than half the overall thickness of the entire device (the body member and frame member combined), see figures 6 and 7. Gori does not disclose making the length in the center section greater than the length in either of the left or right outer sections. Evans shows in figure 1 a card holder that includes a central section which is greater in length than the length in either of the left or right outer sections. Emmett shows in figure 1 a sign that includes a central section which is greater in length than the length in either of the left or right outer sections. In view of the teachings of Evans or Emmett it would have been obvious to one in the art to modify Gori by making the length of the central section greater than the length in either of the left or right outer sections since this would allow create a more amusing, aesthetically pleasing, and safer sign, i.e. the rounded ends would be safer. In regard to claims 3,6, and 9, as best understood, Gori shows in figures 6 and 7 a convex top surface which is formed by the frame member. Since the frame member is supported by the body member the two members are considered to "collectively" form a convex top surface. In regard to claims 4,7, and 10, as broadly defined, the central section in Gori is considered to be about one third the width of the body member.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gori (U.S. Patent No. 5,301,443) in view of Evans (U.S. Design Patent No. 206,518) or Emmett (U.S. Design

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Patent No. D419,604) as applied to claim 8 above and further in view of Nolan, Jr. (U.S. Patent No. 4,094,085).

Gori in view of Evans or Emmett disclose the applicant's basic inventive concept except for making the frame member in the form of three frame members. Nolan, Jr. shows in figure 1 a device that includes multiple frame members, i.e. six frame members. In view of the teachings of Nolan, Jr. it would have been obvious to one in the art to modify Gori by making the frame member include three frame members since this would allow multiple images to be displayed by the frame members and would allow the images to be separately added and removed as desired.

Response to Arguments

Applicant's arguments with respect to claims 2-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
July 27, 2005